TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 1701 - SB 1758

February 21, 2020

SUMMARY OF BILL: Requires insurance contracts to limit the risk to the assured and offer the best outcome for the assured based on the assured's informed choice given full disclosure to the assured of cost information by the other party.

Requires every entity that uses utilization review agents in this state to implement a gold card program that will require a utilization review agent to automatically grant a determination to certify a health care service if certain criteria are met. The proposed legislation is effective January 1, 2021.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - $1,992,500/FY20-21
$3,985,000/FY21-22 and Subsequent Years

Increase Federal Expenditures - $3,102,900/FY20-21
$6,205,800/FY21-22 and Subsequent Years

Increase Local Expenditures – Exceeds $75,000/FY20-21*
Exceeds $150,000/FY21-22 and Subsequent Years*

Other Fiscal Impact – The proposed legislation will likely impact the contracts the Division of TennCare and the Division of Benefits Administration have with multiple insurance providers; however, due to multiple unknown factors, an exact fiscal impact cannot be reasonably determined.

Assumptions:

Division of TennCare

- Based on information provided by the Division of TennCare, the managed care organizations (MCO) combined prior authorized services total approximately $1,867,500,000.
- Assuming a 0.5 percent increase in expenditures for enrollees no longer requiring prior authorization for services, the increase in expenditures is estimated to be $9,337,500 ($1,867,500,000 x 0.5%).
- Medicaid expenditures receive matching funds at a rate of 65.878 percent federal funds to 34.122 percent state funds. Of this amount $3,186,142 ($9,337,500 x 34.122%) will

be in state funds and $6,151,358 ($9,337,500 x 65.878%) will be in federal funds in FY21-22 and subsequent years.

- Due to the January 1, 2021 effective date, the increase in state funds in FY20-21 is estimated to be $1,593,071 ($3,186,142 x 50.0%) and the increase in federal funds in FY20-21 is estimated to be $3,075,679 ($6,151,358 x 50.0%).

Benefits Administration

- Benefits Administration consulted with its contracted qualified independent actuary to determine a fiscal impact for the proposed legislation, resulting in an estimate of a $1,500,000 impact on total claims. Fiscal Review Committee staff is unable to verify the validity of this number.
- It is estimated that 51 percent of members are on the State Employee Plan, 39 percent are on the Local Education Plan and 10 percent are on the Local Government Plan.
- According to Benefits Administration, the state contributes 80 percent of member premiums resulting in a recurring increase in state expenditures of $612,000 ($1,500,000 x 51.0% x 80.0%) in FY21-22 and subsequent years. Due to the January 1, 2021 effective date, the increase in state expenditures for the State Plan is estimated to be $306,000 ($612,000 x 50.0%) in FY20-21.
- According to Benefits Administration, some state plan members' insurance premiums are funded through federal dollars. It is estimated 8.9 percent of the state share of the state plan is funded with federal dollars, resulting in an increase in federal expenditures estimated to be $54,468 ($612,000 x 8.9%) in FY21-22 and subsequent years. Due to the January 1, 2021 effective date, the increase in federal expenditures for the State Plan is estimated to be $27,234 ($54,468 x 50.0%) in FY20-21.
- The state contributes 45 percent of instructional member premiums (75 percent of Local Education Plan members) and 30 percent of support staff member premiums (25 percent of Local Education Plan members) resulting in state expenditures of at least $241,313 [($1,500,000 x 39.0% x 75.0% x 45.0%) + ($1,500,000 x 39.0% x 25.0% x 30.0%)] in FY21-22 and subsequent years. Due to the January 1, 2021 effective date, the increase in state expenditures for the State Plan is estimated to be $120,656 ($241,313 x 50.0%) in FY20-21.
- The state does not contribute to the Local Government Plan; any increase in premiums will be entirely absorbed by the participating agencies and their members.
- It is estimated the Local Government Plan would be responsible for a mandatory increase in local expenditures estimated to be $150,000 ($1,500,000 x 10.0%) in FY21-22 and subsequent years. Due to the January 1, 2021 effective date, the increase in local expenditures is estimated to be $75,000 ($150,000 x 50.0%) in FY20-21.
- It is unknown the impact on local governments that do not opt into the Local Government Plan; therefore, the total increase in local expenditures is estimated to exceed $150,000 in FY21-22 and subsequent years. Due to the January 1, 2021 effective date, the increase in local expenditures is estimated to be $75,000 in FY20-21.

Commerce and Insurance

- The proposed legislation will not impact any programs or policies of the Department of Commerce and Insurance; therefore, any fiscal impact is estimated to be not significant.

Total Fiscal Impacts

- The total increase in state expenditures in FY20-21 is estimated to be $1,992,493 ($1,593,071 + $306,000 + $120,656 - $27,234).
- The total increase in federal expenditures in FY20-21 is estimated to be $3,102,913 ($3,075,679 + $27,234).
- The total increase in state expenditures in FY21-22 and subsequent years is estimated to be $3,984,987 ($3,186,142 + $612,000 + $241,313 - $54,468).
- The total increase in federal expenditures in FY21-22 and subsequent years is estimated to be $6,205,826 ($6,151,358 + $54,468).
- The total increase in local expenditures is estimated to exceed $75,000 in FY20-21 and exceed $150,000 in FY21-22 and subsequent years.

IMPACT TO COMMERCE:

Increase Business Expenditures –
Exceeds $2,000,000/FY20-21 and Subsequent Years

Jobs Impact – 24 positions

Assumptions:

- The Division of TennCare's managed care organizations (MCO), pharmacy benefits manager, and dental benefit will experience an increase in business expenditures to configure their systems to implement and maintain the program estimated to exceed $2,000,000.
- The MCOs will have to hire 8 full-time employees to implement the program; therefore the jobs impact is estimated to be 24 full-time positions (3 MCOs x 8 positions).
- The proposed legislation creates a fiduciary requirement for carriers that does not currently exist and will likely increase premiums; however, due to unknown factors an exact impact to commerce cannot be reasonably determined.

*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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